IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

Crl.Rev.Pet.No. 4431 of 2006(D)

CRA.610/2004 of ADDL. SESSIONS COURT-II, MAVELIKKARA
CC.2/2004 of JUDL.MAGISTRATE OF FIRST CLASS-I, HARIPAD

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REVN. PETITIONER: APPELLANT/ACCUSED:

SURESH KUMAR,
SARADALAYAM, MUTHUKULAM SOUTH MURI,
MUTHUKULAM VILLAGE, MUTHUKULAM SOUTH P.O.

BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SMT.KAVITHA GANGADHARAN

RESPONDENTS: RESPONDENTS/COMPLAINANT AND STATE:

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. USHA MOHANAN,
SANAL NIWAS, PELA MURI, KANNAMANGALAM VILLAGE.

BY ADV. SRI. AMJAD ALI, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 26/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. R.P. NO. 4431 OF 2006

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Dated this the 26th day of February 2007

O R D E R

The revision petitioner/accused stands convicted for the offence under section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for six months and to pay a compensation of Rs.1,10,000/- to the complainant under section 357(3) Cr.P.C and in default to undergo simple imprisonment for three months. It is the contention of the revision petitioner/accused that he had borrowed a sum of Rs.45,000/- from the husband of the complainant and that the amount has been paid back and that the blank cheque issued as security has been misused by filling an inflated amount. DWs 1 to 3 were examined, of which DW3 is the father of the accused. I find that the matter involves only appreciation of evidence and the courts below on considering the evidence has found that the accused has failed to rebut the statutory presumptions. In the circumstances, I find no reason to interfere in the findings of the courts below.

2. All the same, considering the plea of the counsel for the revision petitioner sentence is modified to imprisonment till rising of the court and to pay a compensation of Rs.1,00,000/- which is the cheque amount to the complainant under section 357(3) Cr.P.C and in default to undergo simple imprisonment for three months. The revision petitioner is granted six months time from today onwards to make the payment. He shall appear before Judicial First Class Magistrate, Harippad on 30.08.2007 to receive sentence.

The Crl. R.P. is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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